

MEMORANDUM OF UNDERSTANDING
ON THE DEVELOPMENT OF AN ENVIRONMENTAL IMPACT STATEMENT
ON THE CALFED BAY-DELTA PROGRAM
AMONG UNITED STATES FISH AND WILDLIFE SERVICE,
NATIONAL MARINE FISHERIES SERVICE, UNITED STATES BUREAU
OF RECLAMATION, AND UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BACKGROUND

In July 1994, a Framework Agreement Between the Governor's Water Policy Council of the State of California and the Federal Ecosystem Directorate (the "Framework Agreement") was executed by representatives of the United States Department of the Interior, the United States Environmental Protection Agency, the United States Department of Commerce, and counterpart entities within the State of California. The Framework Agreement committed the signatories to work together in a joint process to develop a long-term solution for the problems affecting public values in the Bay-Delta Estuary. Exhibit C of the Framework Agreement provides that the evaluation of specific solution alternatives will be carried out through a formal California Environmental Quality Act ("CEQA")/National Environmental Policy Act ("NEPA") process conducted by one or more agencies.

Pursuant to the commitments in the Framework Agreement, the Federal government and the State of California have established the CALFED Bay-Delta Program as the comprehensive, long-term planning effort to address Bay-Delta water resource issues, and have provided an interagency team to carry out the Program under CALFED's general direction. In addition, the Bay-Delta Advisory Committee ("BDAC") has been established by the Department of the Interior under the Federal Advisory Committee Act to serve as a citizen advisory committee providing public comment to the CALFED Bay-Delta Program.

The United States Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), United States Bureau of Reclamation (USBR) and United States Environmental Protection Agency (EPA) now desire to establish in this Memorandum of Understanding ("MOU") an interagency process for managing and overseeing the Federal government's participation in the CALFED Bay-Delta Program and in the NEPA analysis which will be carried out as part of that Program.

AGREEMENT

A. Administration of NEPA Process

1. USFWS, NMFS, USBR and EPA will serve as co-lead agencies pursuant to 40 C.F.R. §1501.5. Other Federal agencies may request to participate in the CALFED Bay-Delta Program NEPA process as cooperating agencies under §1501.6. Any such participation will commence upon the execution of a Memorandum of Agreement between the lead agencies and the cooperating agency providing for the scope and nature of the participation.

2. The USBR shall coordinate compliance with the procedural requirements of NEPA, including the circulation of the environmental impact statement ("EIS") under 40 C.F.R. §1502.19, the filing of the EIS under 40 C.F.R. §1506.9, and the preparation and publication in the Federal Register of all notices required under the regulations.

3. The parties will use the CALFED Bay Delta Program interagency team to carry out all aspects of the NEPA process on their behalf, and at their general direction, and to coordinate the NEPA process with the state's CEQA process.

B. Decision Making by Federal Agencies

1. Subject to paragraph E.1, below, the parties intend that all Federal decisions involving the CALFED Bay-Delta Program and related NEPA analysis will be made through a consensus process within the Federal Ecosystem Directorate ("FED").

2. Actions or decisions by the FED on issues involving the CALFED Bay-Delta Program shall be communicated, in writing as appropriate, to the Executive Director of the Program and, where appropriate, to the representatives of the State of California through the CALFED process.

C. Funding

1. The parties agree that the Department of the Interior signatory agencies will coordinate to develop annual budget requests on a single line item basis to identify and secure the financial resources necessary to fund the Federal government's participation in the CALFED Bay-Delta Program. It is acknowledged that each agency's financial contribution is contingent upon adequate appropriations from Congress.

D. Coordination with the State of California

1. As provided in the Framework Agreement and in accordance with 40 C.F.R. §1506.2, the parties propose to coordinate preparation of a single environmental document that satisfies both NEPA and CEQA. This coordination will occur primarily through the

efforts of the CALFED Bay-Delta Program interagency team, but may also require the direct involvement of the parties.

2. The parties envision that the Federal agencies will expeditiously prepare and execute an agreement with the Resources Agency of the State of California to provide for the joint management of the CALFED Bay-Delta Program's NEPA/CEQA process utilizing the Program's interagency team.

E. Related Authorities

1. Nothing in this MOU shall abridge or amend any responsibilities of any of the signatory agencies under any Federal laws or regulations, including, but not limited to, the Clean Water Act, Section 309 of the Clean Air Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, or the Central Valley Project Improvement Act.


F. Modification or Termination of Agreement

1. This MOU may be modified by the parties hereto only with the mutual written agreement of all of the parties.

2. Any party to this MOU may terminate its participation in the preparation of the CALFED Bay-Delta Program NEPA document upon written notice to the other signatories. Termination by one party of its involvement in this MOU shall not terminate or affect the relationship between the remaining MOU signatories.

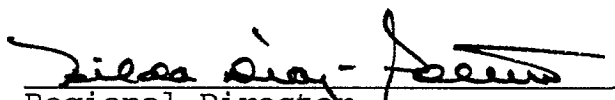
G. Effective Date

1. This MOU shall become effective upon its execution by all of the signatory parties below.




for Regional Director
United States Fish and Wildlife Service

10/19/95
Dated



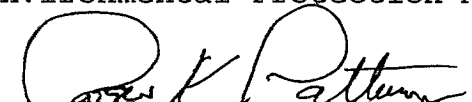
Regional Director
National Marine Fisheries Service

11 Dec 95
Dated



Regional Administrator
Environmental Protection Agency

10/19/95
Dated



Regional Director
United States Bureau of Reclamation

10/19/95
Dated